

Introduced by Senator Yee

January 8, 2013

An act to amend Sections 225, 226, 229, and 230 of, and to add Section 208.3 to, the Welfare and Institutions Code, relating to juveniles.

LEGISLATIVE COUNSEL'S DIGEST

SB 61, as introduced, Yee. Juveniles: solitary confinement.

(1) Existing law permits minors who are detained in juvenile hall for habitual disobedience, truancy, or curfew violation to be held in the same facility as minors who are detained for violating any law or ordinance defining a crime, if they do not come or remain in contact with each other. Existing law also permits the detention of minors in jails and other secure facilities for the confinement of adults if the minors do not come, or remain, in contact with confined adults and other specified conditions are met.

This bill would provide that a minor or ward who is detained in, or sentenced to, any juvenile facility or other secure state or local facility shall not be subject to solitary confinement, as defined, unless the minor or ward poses an immediate and substantial risk of harm to others or to the security of the facility, and all other less-restrictive options have been exhausted. The bill would permit the minor or ward to be held in solitary confinement only in accordance with specified guidelines, including that the minor or ward be held in solitary confinement only for the minimum time required to address the safety risk, and that does not compromise the mental and physical health of the minor or ward. The bill would require clinical staff to evaluate a minor or ward face to face within one hour after placement, and every 4 hours thereafter, as specified. The bill would require treatment staff to implement an individualized suicide crisis intervention plan, as specified, before

subjecting a minor or ward who has exhibited suicidal behavior or committed acts of self-harm to solitary confinement. By increasing the duties of local juvenile facilities, the bill would impose a state-mandated local program.

(2) Existing law establishes a juvenile justice commission in each county, but authorizes the boards of supervisors of 2 or more adjacent counties to agree to establish a regional juvenile justice commission in lieu of a county juvenile justice commission. Existing law specifies the membership of these commissions, including that 2 or more members shall be persons who are between 14 and 21 years of age, inclusive, and that a regional juvenile justice commission shall consist of not less than 8 citizens. Existing law requires a juvenile justice commission to annually inspect any jail or lockup that, in the preceding calendar year, was used for confinement for more than 24 hours of any minor, and to report the results of the inspection, together with its recommendations based thereon, in writing, to the juvenile court and the Board of State and Community Corrections. Existing law authorizes a commission to recommend to any person charged with the administration of the Juvenile Court Law those changes as it has concluded, after investigation, will be beneficial, and to publicize its recommendations.

This bill would provide that 2 or more members of these commissions shall be parents or guardians of previously or currently incarcerated youth, and one member shall be a licensed social worker, licensed psychiatrist, or licensed psychologist with expertise in adolescent development. The bill also would increase from 8 to 10 the minimum number of members of a regional juvenile justice commission. The bill would require a juvenile justice commission, as part of its annual inspection of facilities, to review the records of the jail, lockup, or facility as to the use of solitary confinement, and to report the results of the inspection, together with its recommendations based thereon, in writing, to the juvenile court, the county board of supervisors, and the Board of State and Community Corrections. The bill would require the commission to present its report at an annual hearing on the condition of juvenile justice corrections as part of a regularly scheduled public meeting of the county board of supervisors, and to publish the report on the county government Internet Web site. The bill also would require a commission to publicize its recommendations made to any person charged with administration of the Juvenile Court Law on the county government Internet Web site.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 208.3 is added to the Welfare and
2 Institutions Code, to read:

3 208.3. (a) For purposes of this section, the following
4 definitions shall apply:

5 (1) “Clinician” means a licensed health or mental health care
6 professional.

7 (2) “Minor” means a person who is any of the following:

8 (A) A person under 18 years of age.

9 (B) A person under the maximum age of juvenile court
10 jurisdiction who is confined in a juvenile facility.

11 (C) A person under the jurisdiction of the Department of
12 Corrections and Rehabilitation, Division of Juvenile Facilities.

13 (3) “Solitary confinement” means the involuntary holding of a
14 person in a room or cell from which the person is prevented from
15 leaving, in isolation from persons other than guards, facility staff,
16 and attorneys, during hours other than a facility’s sleeping hours.

17 (4) “Ward” means a person who has been declared a ward of
18 the court pursuant to subdivision (a) of Section 602.

19 (b) A minor or ward who is detained in, or sentenced to, any
20 juvenile facility or other secure state or local facility shall not be
21 subject to solitary confinement, unless the minor or ward poses an
22 immediate and substantial risk of harm to others or to the security
23 of the facility, and all other less-restrictive options have been
24 exhausted. A minor or ward may be held in solitary confinement
25 only in accordance with all of the following guidelines:

26 (1) The minor or ward shall be held in solitary confinement only
27 for the minimum time required to address the safety risk, and that

1 does not compromise the mental and physical health of the minor
2 or ward.

3 (2) The minor or ward shall be evaluated, within one hour after
4 placement in solitary confinement and every four hours thereafter,
5 face-to-face by a clinician to determine if the minor or ward shall
6 remain in solitary confinement. Each evaluation shall be
7 documented and shall include the reason for continued placement
8 in solitary confinement.

9 (3) The minor or ward shall not be placed in solitary
10 confinement for more than 24 consecutive hours in a one-week
11 period without the written approval of the Chief of the Division
12 of Juvenile Facilities, or his or her designee, or the chief probation
13 officer, or his or her designee.

14 (c) Solitary confinement shall not be used for the purposes of
15 discipline, punishment, coercion, convenience, or retaliation by
16 staff.

17 (d) (1) A minor or ward who has exhibited suicidal behavior
18 or committed acts of self-harm shall not be subject to solitary
19 confinement, except as provided in paragraphs (1) and (2) of
20 subdivision (b), and if both of the following conditions are met:

21 (A) The condition of the minor or ward is monitored closely by
22 a clinician in order to reduce or eliminate the risk of self-harm.

23 (B) Treatment staff implement an individualized suicide crisis
24 intervention plan approved by a clinician within four hours of
25 placing the minor or ward in solitary confinement.

26 (2) The minor or ward shall be moved to an offsite hospital or
27 mental health hospital if the suicide risk is not resolved within 24
28 hours.

29 (e) Each local and state juvenile facility shall document the
30 usage of solitary confinement, including the dates and duration of
31 each occurrence and the reason for placement in solitary
32 confinement. These records shall be available for public inspection
33 pursuant to the California Public Records Act (Chapter 3.5
34 (commencing with Section 6250) of Division 7 of Title 1 of the
35 Government Code).

36 (f) Nothing in this section shall be construed to conflict with
37 any law providing greater or additional protections to minors or
38 wards.

39 SEC. 2. Section 225 of the Welfare and Institutions Code is
40 amended to read:

225. (a) In each county there shall be a juvenile justice commission consisting of not less than 7 and no more than 15 citizens. Two or more ~~of the~~ members shall be persons who are between 14 and 21 years of age, ~~provided~~ *inclusive*, if there are available persons between 14 and 21 years of age, *inclusive*, who are able to carry out the duties of a commission member in a manner satisfactory to the appointing authority. *Two or more members shall be parents or guardians of previously or currently incarcerated youth. One member shall be a licensed social worker, licensed psychiatrist, or licensed psychologist with expertise in adolescent development.* Each person serving as a member of a probation committee immediately prior to September 15, 1961, shall be a member of the juvenile justice commission and shall continue to serve as such until ~~such time as~~ his or her term of appointment as a member of the probation committee would have expired under any prior ~~provision of law~~. Upon a vacancy occurring in the membership of the ~~commission~~ *commission*, and upon the expiration of the term of office of any member, a successor shall be appointed by the presiding judge of the superior court with the concurrence of the judge of the juvenile court or, in a county having more than one judge of the juvenile court, with the concurrence of the presiding judge of the juvenile court for a term of four years. ~~When~~ *If* a vacancy occurs for any reason other than the expiration of a term of office, the appointee to fill ~~such~~ *the* vacancy shall hold office for the unexpired term of his or her predecessor.

Appointments

(b) *Appointments* may be made by the presiding judge of the superior court, in the same manner designated in this section for the filling of vacancies, to increase the membership of a commission to the maximum of 15 in any county ~~which~~ *that* has a commission with a membership of less than 15 members.

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(c) *In* any county in which the membership of the commission, on the effective date of amendments to this section enacted at the 1971 Regular Session of the Legislature, exceeds the maximum number permitted by this section, no additional appointments shall be made until the number of commissioners is less than the maximum number permitted by this section. In any case, ~~such~~ *that* county's commission membership shall, on or after January 1, 1974, be no greater than the maximum permitted by this section.

SEC. 3. Section 226 of the Welfare and Institutions Code is amended to read:

226. In lieu of county juvenile justice commissions, the boards of supervisors of two or more adjacent counties may agree to establish a regional juvenile justice commission consisting of not less than ~~eight~~ 10 citizens, and having a sufficient number of members so that their appointment may be equally apportioned between the participating counties. Two or more ~~of the~~ members shall be persons who are between 14 and 21 years of age, ~~provided inclusive, if~~ there are available persons between 14 and 21 years of age, *inclusive*, who are able to carry out the duties of a commission member in a manner satisfactory to the appointing authority. *Two or more members shall be parents or guardians of previously or currently incarcerated youth. One member shall be a licensed social worker , licensed psychiatrist, or licensed psychologist with expertise in adolescent development.* The presiding judge of the superior court with the concurrence of the judge of the juvenile court or, in a county having more than one judge of the juvenile court, with the concurrence of the presiding judge of the juvenile court of each of the participating counties shall appoint an equal number of members to the regional justice commission and ~~they~~ *the members* shall hold office for a term of four years. Of those first appointed, however, if the number appointed ~~be~~ *is* an even number, half shall serve for a term of two years and half shall serve for a term of four ~~years and if~~ years. *If* the number of members first appointed ~~be~~ *is* an odd number, the greater number nearest half shall serve for a term of two years and the remainder shall serve for a term of four years. The respective terms of the members first appointed shall be determined by lot as soon as possible after their appointment. Upon a vacancy occurring in the membership of the ~~commission~~ *commission*, and upon the expiration of the term of office of any member, a successor shall be appointed by the presiding judge of the superior court with the concurrence of the judge of the juvenile court or, in a county having more than one judge of the juvenile court, with the concurrence of the presiding judge of the juvenile court of the county ~~which~~ *that* originally appointed ~~such~~ *the* vacating or retiring member. ~~When~~ *If* a vacancy occurs for any reason other than the expiration of a term of office, the appointee shall hold office for the unexpired term of his or her predecessor.

SEC. 4. Section 229 of the Welfare and Institutions Code is amended to read:

229. (a) It shall be the duty of a juvenile justice commission to inquire into the administration of the juvenile court law in the county or region in which the commission serves. For this purpose the commission shall have access to all publicly administered institutions authorized or whose use is authorized by this chapter situated in the county or region, shall inspect ~~such~~ *those* institutions ~~no less frequently than at least once a year~~, and may hold *public* hearings. A judge of the juvenile court ~~shall have the power to~~ *may* issue subpoenas requiring attendance and testimony of witnesses and production of papers at hearings of the commission.

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(b) A juvenile justice commission shall annually inspect any ~~jail, jail, lockup, or lockup facility~~ *jail, lockup, or facility* within the county ~~which that,~~ in the preceding calendar ~~year~~ *year*, was used for confinement for more than 24 hours of any minor. ~~It~~ *As part of the annual inspection, the commission shall review the records of the jail, lockup, or facility as to the use of solitary confinement, as defined in paragraph (3) of subdivision (a) of Section 208.3. The commission shall report the results of* ~~such inspection~~ *the inspection, together with its recommendations based thereon, in writing, to the juvenile court, the county board of supervisors, and to the Board of State and Community Corrections. The commission shall present its report at an annual hearing on the condition of juvenile justice corrections as part of a regularly scheduled public meeting of the county board of supervisors, and shall publish the report on the county government Internet Web site.*

SEC. 5. Section 230 of the Welfare and Institutions Code is amended to read:

230. A juvenile justice commission may recommend to any person charged with the administration of any of the provisions of this chapter ~~such~~ *those* changes as it has concluded, after investigation, will be beneficial. A commission ~~may~~ *shall* publicize its ~~recommendations~~ *recommendations on the county government Internet Web site.*

SEC. 6. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made

1 pursuant to Part 7 (commencing with Section 17500) of Division
 2 4 of Title 2 of the Government Code.

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5 **CORRECTIONS:**

6 **Text—Pages 3 and 4.**

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